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REMARKS

This is a full and timely response to the outstanding Advisory Action mailed March 22, 2006 and the final Office Action mailed December 29, 2005. Reconsideration and allowance of the application and presently pending claims 2, 5-9, 11-12, 14, 17-21, and 23-34 are respectfully requested.

1. Response to Rejection of Claims Under 35 U.S.C. §102(a)

In the Office Action, claims 25-29 and 35 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by *Melen* (U.S. Patent No. 6,320,979 B1). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

a. Claim 25

As provided in independent claim 25, Applicants claim:

An image processing system, comprising:
an image storage device;
at least two similar images contained in the image storage device;
a processor coupled to the image storage device;
a code segment for processing the at least two similar images, where the at least two similar images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images, the at least one characteristic including at least one of lens tilt and lens shift characteristics, a lens shift referring to a physical shift of the lens in a vertical direction or a horizontal direction with respect to an image plane and a plane tilt referring to a physical tilt of the lens with respect to the image plane; wherein the code segment simulates at least one of the lens shift and plane tilt characteristics in the new image from the at least two images captured at a plurality of focal lengths; and
an output element for rendering the new image.

(Emphasis added).

Applicants respectfully submit that independent claim 25 is allowable for at least the reason that *Melen* does not disclose at least the element of "a code segment for processing the at least two similar images, where the at least two similar images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images, the at least one characteristic including at least one of lens tilt and lens shift

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characteristics, a lens shift referring to a physical shift of the lens in a vertical direction or a horizontal direction with respect to an image plane and a plane tilt referring to a physical tilt of the lens with respect to the image plane; wherein the code segment simulates at least one of the lens shift and plane tilt characteristics in the new image from the at least two images captured at a plurality of focal lengths," as recited and emphasized above in claim 25.

In particular, *Melen* fails to teach or suggest simulation of lens shift and plane tilt characteristics in an image having attributes combined from at least two images. For at least this reason, *Melen* does not anticipate claim 7. Therefore, the rejection of claim 7 should be withdrawn.

b. Claims 26-29 and 32

Because independent claim 25 is allowable over the cited art of record, dependent claims 26-29 and 32 (which depend from independent claim 25) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and elements of independent claim 25.

Additionally and notwithstanding the foregoing reasons for allowability of claims 26-29 and 32, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the references of record. For at least these reasons, the rejection of claims 26-29 and 32 should be withdrawn.

2. Response to Rejection of Claims Under 35 U.S.C. §103(a)

In the Office Action, claims 2, 7, 8, 14, 19, and 20 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* (U.S. Patent No. 6,525,761 B2) in further view of *Seki* (U.S. Patent No. 6,320,979 B1). Claims 3-6, 9-10, 15-18, and 21-22 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* in further view of *Seki* in further view of *Fredlund* (U.S. Patent Publication No. 2003/0128287). Claims 11 and 23 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* in further view of *Seki* in further view of *Ockman* (U.S. Patent No. 6,816,627 B2). Claims 12 and 24 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* in further view of *Seki* in further view of *Cesana* (U.S. Patent No. 6,466,220 B1). Claim 30 stands rejected under 35 U.S.C. §103(a) as

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allegedly being unpatentable by *Melen* in view of *Takahashi* (U.S. Patent Application Publication No. 2002/0071044 A1). Claim 31 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Brooksby* (U.S. Patent Application Publication No. 2003/0117412 A1). Claims 33 and 34 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Ockman* (U.S. Patent No. 6,816,627 B2). It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 7

As provided in independent claim 7, Applicants claim:

A digital image capture and processing system comprising:
a lens coupled to a lens control element;
an image sensor configured to capture images from the lens;
a memory element and a processor coupled to the lens control element, the memory element including image capture software, where the image capture software cause the lens and the image sensor to capture at least two images, each of the at least two images captured using a varying parameter and stored as a single file, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images;

a user interface associated with the image capture software, where the user interface allows the user to combine attributes of the at least two images to form the new image, wherein the user interface further comprises a lens shift and an image plane tilt adjustment, a lens shift referring to a physical shift of the lens in a vertical direction or a horizontal direction with respect to an image plane and a plane tilt referring to a physical tilt of the lens with respect to the image plane, wherein the image capture software and the user interface are used to simulate at least one of the lens shift and plane tilt characteristics in the new image by capturing the at least two images at a plurality of focal lengths; and

a depth of field indicator assigned to each of the at least two images, where the depth of field indicator allows a user to determine a depth of field for each of the at least two images.

(Emphasis added).

Applicants respectfully submit that independent claim 7 is allowable for at least the reason that *Melen* in view of *Sato* in view of *Seki* does not disclose at least "a user interface

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associated with the image capture software, where the user interface allows the user to combine attributes of the at least two images to form the new image, wherein the user interface further comprises a lens shift and an image plane tilt adjustment, a lens shift referring to a physical shift of the lens in a vertical direction or a horizontal direction with respect to an image plane and a plane tilt referring to a physical tilt of the lens with respect to the image plane, wherein the image capture software and the user interface are used to simulate at least one of the lens shift and plane tilt characteristics in the new image by capturing the at least two images at a plurality of focal lengths," as recited and emphasized above in claim 7.

For example, neither *Melen*, *Sato*, or *Seki* appears to teach or suggest simulation of lens shift and plane tilt characteristics in an image having attributes combined from at least two images. For at least this reason, a *prima facie* case establishing an obviousness rejection by the proposed combination of *Melen* in view of *Sato* in further view of *Seki* has not been made. Therefore, the rejection of claim 7 should be withdrawn.

b. Claims 2, 5-6, 8-9, and 11-12

Because independent claim 7 is allowable over the cited art of record, as previously discussed, claims 2, 5-6, 8-9, and 11-12 (which depends from independent claim 7) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and elements of independent claim 7 and the cited references of *Fredlund*, *Ockman*, and *Cesana* fail to remedy the deficiencies of the *Melen*, *Sato*, and *Seki* references.

Additionally and notwithstanding the foregoing reasons for allowability of claims 2, 5-6, 8-9, and 11-12, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the references of record. For at least these reasons, the rejection of claims 2, 5-6, 8-9, and 11-12 should be withdrawn.

c. Claim 19

As provided in independent claim 19, Applicants claim:

A method for operating a digital image capture and processing device,
the method comprising the steps of:
coupling a lens to a lens control element;
coupling an image sensor to the lens;

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capturing at least two images, each of the at least two images captured using a varying parameter, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images;

storing the at least two images as a single file;

assigning a depth of field indicator to each of the at least two images;

determining a depth of field for each of the at least two images;

providing lens shift and image plane tilt indicators, a lens shift referring to a physical shift of the lens in a vertical direction or a horizontal direction with respect to an image plane and a plane tilt referring to a physical tilt of the lens with respect to the image plane;

simulating at least one of the lens shift and plane tilt characteristics in the new image from the at least two images captured at a plurality of focal lengths; and

combining attributes of the at least two images to form the new image.

(Emphasis added).

Applicants respectfully submit that independent claim 19 is allowable for at least the reason that *Melen* in view of *Sato* in view of *Seki* does not disclose at least "providing lens shift and image plane tilt indicators, a lens shift referring to a physical shift of the lens in a vertical direction or a horizontal direction with respect to an image plane and a plane tilt referring to a physical tilt of the lens with respect to the image plane; simulating at least one of the lens shift and plane tilt characteristics in the new image from the at least two images captured at a plurality of focal lengths; and combining attributes of the at least two images to form the new image," as recited and emphasized above in claim 19.

For example, neither *Melen*, *Sato*, or *Seki* appears to teach or suggest simulation of lens shift and plane tilt characteristics in an image having attributes combined from at least two images. For at least this reason, a *prima facie* case establishing an obviousness rejection by the proposed combination of *Melen* in view of *Sato* in further view of *Seki* has not been made. Therefore, the rejection of claim 19 should be withdrawn.

d. Claims 14, 17-18, 21, and 23-24

Because independent claim 19 is allowable over the cited art of record, as previously discussed, claims 14, 17-18, 21, and 23-24 (which depends from independent claim 19) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and steps of independent claim 19 and the cited references of *Fredlund*, *Ockman*, and *Cesana* fail to remedy the deficiencies of the *Melen*, *Sato*, and *Seki* references.

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Additionally and notwithstanding the foregoing reasons for allowability of claims 14, 17-18, 21, and 23-24, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the references of record. For at least these reasons, the rejection of claims 14, 17-18, 21, and 23-24 should be withdrawn.

e. Claims 30-31 and 33-34

Because independent claim 25 is allowable over the cited art of record, as previously discussed, claims 30-31 and 33-34 (which depend from independent claim 25) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and elements of independent claim 25 and the cited references of *Takahashi*, *Brooksby*, and *Ockman* fail to remedy the deficiencies of the *Melen* reference.

3. Cancellation of Claims


Claims 3-4, 10, 15-16, and 22 are canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to these claims are rendered moot. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the canceled subject matter to the public.

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CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


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